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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,930	01/26/2004	Mark W.L. Smith	33103	1929
23589	7590	06/22/2007	EXAMINER	
HOVEY WILLIAMS LLP 2405 GRAND BLVD., SUITE 400 KANSAS CITY, MO 64108			PHAM, HUONG Q	
ART UNIT		PAPER NUMBER		
3772				
MAIL DATE		DELIVERY MODE		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/707,930	SMITH ET AL.
	Examiner	Art Unit
	Huong Q. Pham	3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 16 April 2007.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-36 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-36 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1- 7, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Crowell et al ( 3,138,156).

Crowell et al teaches an above knee shrinker having every claimed feature of claims 1-5, 7 , 14 including a waist belt13 ( figure 2), a tubular fabric receptacle 11 with top and bottom ends, U-shaped edge projecting opening including a pair of spaced apart upright sections, a constricting element 14, 17 operable to constrict the receptacle capable to doubling over of the receptacle, wherein the constricting element 14, 17 is capable of being vertically movable along the receptacle ( to double over of the receptacle) to adjust a length of the doubled over portion of the receptacle. Note that the knee shrinker of Crowell et al is longer than the residual limb , and is capable of being doubled over the residual limb, said receptacle being coupled to the waist belt adjacent the top end so that snug securement of the waist belt about the wearer's waist restricts vertical displacement of the receptacle along the residual limb when the shrinker is donned. As for claim 3, note that each of said upright sections is being generally

linear. As for claim 4, note that said bottom section having an arcuate shape. As for claim 5, note the constricting element 17 operable to constrict the receptacle generally adjacent to the distal end of the residual limb when the shrinker is donned. As for claim 6, note that the constricting element 17 includes a ring 14 which is capable of being received or doubled over the receptacle. As for claim 7, note that said receptacle being formed of multi- directional stretchable material. As for claim 14, note the belt receiving channels 23, 24, 25.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-13, 15- 36, are rejected under 35 U.S.C. 103(a) as being unpatentable over Crowell et al ( 3,138,156) in view of Svoboda et al ( 6,158,253) and Smith et al ( 4,840,635).

Crowell et al teaches that the receptacle 11 is made of multi-directional stretchable elastic material.

Svoboda et al and Smith et al teach the type of elastic fabric recited in the claims .

In view of the teachings of Svoboda et al and Smith et al, it would have been obvious to one ordinary skill in the art at the time the invention was made to use the type of elastic material as recited in the claims for the knee shrinker of Crowell et al in order to provide the desired degree of stretch, compression, and support.

As for claims 15, 31, note that the use of hook and loop material adjacent the belt ends is well known in the art. It would have been obvious to one ordinary skill in the art at the time the invention was made to substitute the belt and buckle fastening mechanism of Crowell et al for hook and loop material fastening mechanism for quick and easily fastening. As for claims 19, 35, note that the elastic fabric of Crowell et al is "dyeable".

### ***Response to Arguments***

Applicant's arguments filed on 4/16/2007 have been fully considered but they are not persuasive.

Note the comments relative to the claims above.

Applicant argues that Crowell fails to show or suggest the use of a vertically movable constricting element to facilitate doubling over the sleeve. The examiner does not agree. As discussed above, the constricting element /ring 14, 17 of Crowell et Al is capable of being vertically movable along the receptacle ( to at least partially double over of the receptacle) to adjust a length of the doubled over portion of the receptacle. Note that the knee shrinker of Crowell et al is longer than the residual limb ( note figures 2, 3).

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huong Q. Pham whose telephone number is (571) 272-4980. The examiner can normally be reached on 8:45 AM - 5:15 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on ( 571) 272 - 4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is

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available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

June 20, 2007

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*6/20/07*